

Senate Committee on Environment and Public Works
Legislative hearing: “Examining Legislation to Address the Risks Associated with Per- and Polyfluoroalkyl Substances (PFAS)”
May 22, 2019

[[HYPERLINK "https://www.epw.senate.gov/public/index.cfm/2019/5/examining-legislation-to-address-the-risks-associated-with-per-and-polyfluoroalkyl-substances-pfas"](https://www.epw.senate.gov/public/index.cfm/2019/5/examining-legislation-to-address-the-risks-associated-with-per-and-polyfluoroalkyl-substances-pfas)] to hearing video and witness testimony

[[HYPERLINK "https://news.bloombergenvironment.com/environment-and-energy/nonstick-chemical-bills-not-ready-for-prime-time-barrasso-says/"](https://news.bloombergenvironment.com/environment-and-energy/nonstick-chemical-bills-not-ready-for-prime-time-barrasso-says/)] and [[HYPERLINK "https://www.eenews.net/eedaily/2019/05/23/stories/1060381793"](https://www.eenews.net/eedaily/2019/05/23/stories/1060381793)]

Witnesses:

- Kimberly Wise White Ph.D., Senior Director, Chemical Products and Technology, American Chemistry Council
- Lisa Daniels, Past-President, Association of State Drinking Water Administrators and Director, Bureau of Safe Drinking Water, Pennsylvania Department of Environmental Protection
- Scott Faber, Senior Vice President, Government Affairs, Environmental Working Group
- G. Tracy Mehan III, Executive Director, Government Affairs, American Water Works Association

Bills under consideration:

- [[HYPERLINK "https://www.congress.gov/bill/116th-congress/senate-bill/638"](https://www.congress.gov/bill/116th-congress/senate-bill/638)], the “PFAS Action Act of 2019” [CERCLA] (Carper);
- [[HYPERLINK "https://www.congress.gov/bill/116th-congress/senate-bill/950"](https://www.congress.gov/bill/116th-congress/senate-bill/950)], the “PFAS Detection Act of 2019” [USGS sampling] (Stabenow);
- [[HYPERLINK "https://www.congress.gov/bill/116th-congress/senate-bill/1251"](https://www.congress.gov/bill/116th-congress/senate-bill/1251)], the “Safe Drinking Water Assistance Act of 2019” [SDWA] (Shaheen);
- [[HYPERLINK "https://www.congress.gov/bill/116th-congress/senate-bill/1372"](https://www.congress.gov/bill/116th-congress/senate-bill/1372)], the “PFAS Accountability Act of 2019” [cooperative agreements] (Stabenow);
- [[HYPERLINK "https://www.congress.gov/bill/116th-congress/senate-bill/1473"](https://www.congress.gov/bill/116th-congress/senate-bill/1473)], the “Protect Drinking Water from PFAS Act of 2019” [MCL] (Gillibrand); and
- [[HYPERLINK "https://www.congress.gov/bill/116th-congress/senate-bill/1507"](https://www.congress.gov/bill/116th-congress/senate-bill/1507)], the “PFAS Release Disclosure Act” [TRI] (Capito).

Overarching themes of the majority: PFAS contamination is a ubiquitous problem and solving it is a bipartisan goal. Some of bipartisan bills under consideration are troublesome; don’t want to ignore processes in place that ensure scientifically-defensible regulation. Need more risk information.

Overarching themes of the minority: The PFAS problem is urgent and we need action now. Also committed to bipartisan action. We should regulate as a class and use existing TSCA authorities now to address PFAS.

Opening statements:

BARRASSO: *characterization of PFAS problem*. Committed to bipartisan action but can't support some of these bills as written. Don't want to short circuit the rule making process, don't know enough about the risks of the different types

CARPER: I recognize that PFAS AFFF have supported our military readiness and public safety. *Shows EWG map*. This problem deserves a sense of urgency. EPA PFAS Action Plan largely includes actions "to consider." Groundwater clean-up guidance was weakened *Brief summary of all bills*. We need the same partners who were on deck for TSCA bill.

KIMBERLY WISE WHITE: chemical risk assessor with ACC. Chemical industry supports a comprehensive approach to mitigate chemical contamination.

1. Today's PFAS chemistries have widespread, important applications in modern life
2. Critical to follow APA
3. Science-based approaches should be the basis of any legislation
4. A single-class approach is not scientifically justified

LISA DANIELS: Will present ASDWA's perspective on gaps in federal regulation

1. Coordinated federal leadership is needed. State MCLs are resource intensive
2. PFAS must be addressed using a multi-media and cross-statutory approach. Class approach is best
3. Advocate for a National priority framework and research agenda for PFAS
4. Additional funding for EPA, state, and water suppliers are necessary

SCOTT FABER: EPA's plan is not urgent enough, not "personal." We must address ongoing emissions to air and water; Sewage sludge; Proper disposal of PFAS

TRACY MEHAN: Our members are the most public-facing. There are existing tools EPA could be using to address PFAS: e.g. TSCA for source water protection. EPA should provide info/report on location of current production/import/processing/use of PFAS compounds via TSCA; restrict production, use, and import, and improve risk communication with the public. Other feds should report. Support EPA/OW as it works through rulemaking on MCL. Caution against bypassing regulatory science-driven process. Don't want to mis-deploy resources on less-risky chemicals

Q&A

BARRASSO: EPA has started hazardous waste designation, does ACC support?

WHITE: ACC supports the review as long as it follows the science-driven, established processes

BARRASSO: Differences between PFAS chemicals?

WHITE: All PFAS are different, e.g. fluoropolymers are large molecules that are not water soluble, you really have to look at each one

BARRASSO: In some areas, PFAS is just one of several contaminants, how do the risks of PFAS compare to others?

DANIELS: There are other high priority contaminants. In a lot of those chemicals, the risks are known. The challenge with PFAS is it is everywhere--haven't really seen one like that—and there is high potential for cross-contamination. Have to get them out of commerce, not just a DW issue

BARRASSO: What happened following 1986 SDWA amendments?

MEHAN: EPA had to put out 25 MCLs every 3 years. Unclear what the risks were, big resource constraints,

CARPER: Y/N questions:

Some PFAS chemicals have been shown to be harmful to hh?

There should be a federal DW standard to regulate the harmful PFAS that have been found in DW? (MEHAN and WHITE: have to follow the regulatory process)

Public should be made aware of releases of PFAS?

EPA should have authority under SF to require RPs to pay to clean up PFAS? (MEHAN & WHITE: follow process)

What is your top priority for PFAS legislation?

- WHITE: Based on best available science
- DANIELS: look at authorities under TSCA to address chemicals before they're in the environment
- FABER: kick-start the clean-up process. Fed/DOD take responsibility for their pollution
- MEHAN: need to get TSCA in the game, respect the processes of the SDWA

CAPITO: S1507: add PFAS to TRI, grounded in science.

WHITE: ACC members are familiar with TRI and how things should be listed. We would be supportive of reviewing the TRI requirement

CAPITO: Is this bill too burdensome?

FABER: No, it only applies to industrial dischargers

CAPITO: Accountability measures in the TRI since your stakeholders will have to deal with them?

DANIELS: need to get more info out to states and utilities. Lack of information

MEHAN: AWWA doesn't take position on TRI but personally it's a good light-handed critique; we just caution against class approach, but focus on small subset is okay

CAPITO: It's in all our best interests to talk as simply as we can about these issues and get to real solutions. I pledge to keep working with wide stakeholders

MARKEY: AFFF pose particular risks to fire fighters. Sites in MA. Should be keeping them safe. Civilian airports can still use non-PFAS AFFFs, but not military

FABER: in foams and turn-out gear, Congress should do more to test the blood of firefighters. We need accelerate the ramp down of use of AFFFs

MARKEY: DOD's Sullivan in her testimony in March talked about states' "properly promulgated" regs: of the 5 states with PFAS regulations on the books, would they be considered "properly promulgated?"

FABER: Yes.

MARKEY: PFAS Accountability Act—includes DOD and civ collaboration, fire fighter suits, should we track civilian exposure? Studying occupational PFAS exposure as affects community firefighters?

FABER: yes.

MARKEY: Would designating PFAS as a hazardous waste help military communities struggling w/ contamination?

FABER: Yes, it would kick-start remediation

MARKEY: States are being forced to step up as EPA slow walks. DOD is denying and dodging

WHITEHOUSE: good work in this committee in bipartisan way. Agencies need to take that message and not insert politics into agency decisions.

I hope ACC is trying to lean in and contribute to solving the problem

WHITE: ACC is willing to be a constructive partner in this process

WHITEHOUSE We are likely to be talking about an infrastructure bill at some point. What would you like to see in an infra bill?

DANIELS: funding sources--SRF is great but so much need to deal with other problems

VAN HOLLEN: 5 sites in MD. When a fed is found liable for a cleanup, they've got to find \$ in their budgets for cleanup?

FABER: Yes, e.g. Wallop's is NASA dollars, not Superfund ... DOD has DERP that can finance some remediation, not enough. When states are in control, there's not requirement for MOUs which would stipulate that DOD has to meet a "properly promulgated" standard. CERCLA is missing that DOD has to meet state standard when state is the lead...duty to alert congress if they can't reach an MOU